

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

CIVIL NO. 1:07CV178  
(1:03CR4)

DANNY CARLTON GRIPPER,	)	
	)	
Petitioner,	)	
	)	
Vs.	)	<u>ORDER OF DISMISSAL</u>
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	
	)	

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THIS MATTER is before the Court on remand from the Fourth Circuit Court of Appeals. *Grinner v. United States*, 2007 WL 1115953 (4<sup>th</sup> Cir. 2007).

By Order filed October 12, 2006, this Court denied the Petitioner's "motion to have court ordered restitution paid as ordered by the court."

**See, Order, filed October 12, 2006 (Crim. No. 1:03CR4).** The Petitioner appealed the Court's Order and by an unpublished *per curiam* opinion, the Fourth Circuit vacated and remanded the case to this Court for further proceedings. *Grinner, supra*. The Fourth Circuit directed the Petitioner's motion be construed as a habeas corpus petition under 28 U.S.C. § 2241

and this Court make a determination whether to transfer the action to the district court of Petitioner's confinement or dismiss the action without prejudice to the Petitioner to refile same in the appropriate district court.

*Id.* The Court, therefore, finds that the interests of justice would best be served by dismissing this action without prejudice and permitting the Petitioner to refile same in the appropriate district court.

**IT IS, THEREFORE, ORDERED** that this action is hereby  
**DISMISSED WITHOUT PREJUDICE.**

Signed: May 16, 2007



Lacy H. Thornburg  
United States District Judge

